

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ANDREAS PEFANIS on behalf of himself
and all others similarly situated,

Plaintiff,

-v-

WESTWAY DINER, INC.,

Defendant.
-----X

: 08 CIV. 002 (DLC)

: SCHEDULING ORDER

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 1-14-10

DENISE COTE, District Judge:

IT IS HEREBY ORDERED that the parties are instructed to contact the chambers of Magistrate Judge Ellis prior to **January 22, 2010** in order to pursue settlement discussions under his supervision.

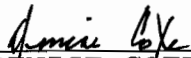
IT IS FURTHER ORDERED that the case is placed on the **March 8, 2010** trial ready calendar. You must be ready to proceed on 24 hours notice. You may contact the Deputy Clerk, Gloria Rojas, to learn where your case stands on the calendar.

IT IS FURTHER ORDERED that the following procedures shall govern the conduct of the trial.

1. All exhibits must be pre-marked.
2. At the start of the trial each party will present the Court with the following documents:
 - (a) Three copies of a complete exhibit list.
 - (b) A set of pre-marked exhibits assembled sequentially i) in a looseleaf binder, or ii) in separate manila folders labelled with the exhibit numbers and placed in a suitable container or box for ready reference.
 - (c) The exhibits should include copies of the sections of any depositions that are intended to be offered into evidence, expert reports, and any charts or summaries of evidence.
3. Counsel should be available every day at 9:00 a.m. (except for the first day of trial) in order to discuss with the Court any legal or evidentiary issues expected to arise during the day.

4. Testimony will generally be taken between 9:30 and 5:00 from Monday through Thursday. There will be a mid-morning, a mid-afternoon and a lunch break from 12:45 p.m. to 2 p.m.
5. There should be no sidebars during jury trials. Counsel are expected to anticipate any problems that might require a ruling from the Court and to raise those issues with the Court in advance of the time that the jury will be hearing the evidence.
6. Unless counsel request otherwise prior to trial, depositions offered in lieu of live testimony will not be read to the jury. Counsel should make sufficient copies of those depositions or sections of depositions so that each juror has a complete set. If the volume of such transcripts warrants it, the transcripts should be placed in a binder. The jury will be given time to read the depositions at home, or if appropriate, in the courthouse.
7. If counsel intend to distribute copies of documentary exhibits to the jury, make a separate copy for each juror.
8. Counsel should make certain that they have custody of all original exhibits. The Court does not retain them and the Clerk is not responsible for them.

Dated: New York, New York
January 14, 2010



DENISE COTE
United States District Judge